

## SERVICES AGREEMENT

This Services Agreement ("**Agreement**") is entered into by and between Smartsheet Inc. ("**Smartsheet**") and the State of Oregon, acting through its Department of Administrative Services on behalf of the State of Oregon, and its Agencies, all entities of the State of Oregon as defined in Oregon Revised Statute 174.111, its political subdivisions, and ORCPP members (Licensee) (each entity acting in its individual capacity "**Customer**") and governs the use of the Smartsheet Subscription Service and any Professional Services ordered by Customers. For the avoidance of doubt, this Agreement will apply to any Order or SOW entered into by a Customer. This Agreement is effective as of the Subscription Effective Date specified on the initial Order by a Customer.

### 1. Services.

1.1 Subscription Service. Subject to this Agreement and in consideration of the fees specified in any Order, Smartsheet will make the Subscription Service available to Customer throughout the Term. In the event that Customer purchases a subscription to an Add-On, the Subscription Service will be deemed to include such Add-Ons except as otherwise expressly provided herein. Smartsheet hereby grants Customer a worldwide, non-exclusive, non-transferable right to access and use the Subscription Service during the Term for Customer's internal business purposes, pursuant to the terms and conditions of this Agreement.

1.2 Professional Services. Subject to this Agreement and in consideration of the fees specified in any applicable Order or SOW, the parties may agree for Smartsheet to provide Professional Services. The specifications for Professional Services, if any, will be as set forth in an Order or SOW. Smartsheet hereby grants Customer a worldwide, non-exclusive, non-transferable right to access and use Work Product resulting from Professional Services during the Term for Customer's internal business purposes, pursuant to the terms and conditions of this Agreement.

### 2. Use of the Services; Restrictions.

2.1 Conditions. Smartsheet's provision of the Subscription Service and the Professional Services (collectively, the "**Services**") is conditioned on Customer's acknowledgement and agreement to the following:

(a) Certain types of information included in the Customer Content may be subject to specific laws (e.g., laws regarding personally identifiable information, payment card information, protected health information, etc.). Customer, not Smartsheet, is responsible for compliance with any such laws. Without limiting the foregoing, Customer represents and warrants that if applicable, it will provide any required notice to and obtain any required consent from individuals and/or other entities related to the Customer Content and any personal or otherwise protected information included therein.

(b) All Customer Content stored utilizing the Subscription Service is maintained in encrypted form (in transit and at rest) and Smartsheet does not access Customer Content except: (a) as requested by Customer to enable the provision of customer support; and (b) as necessary for Smartsheet to (i) comply with applicable law or legal proceedings, or (ii) investigate, prevent or take action against suspected abuse, fraud or violation of this Agreement. Except with respect to requests described in subpart (i) above, unless prohibited by law, where Smartsheet receives a request from an individual to access, amend, or delete her/his personal information stored within Customer Content or as part of the Account Information provided by Customer, Smartsheet will refer such requests to Customer. Customer will be responsible for responding to such requests as required by applicable law, and Smartsheet will provide Customer with reasonable support as necessary to facilitate Customer's response. To the extent that Smartsheet accesses Customer Content as permitted under this clause and this Agreement, Smartsheet shall not use such Customer Content for any purpose except in connection with this Agreement.

(c) The Subscription Service facilitates the sharing of information within Customer's organization and potentially outside of Customer's organization. Between Customer and Smartsheet, Customer has exclusive control over the distribution of and access to the Customer Content.

2.2 Login Credentials. Each set of login credentials for the Subscription Service may be used only by a single, individual Customer User. Customer agrees to promptly notify Smartsheet of any unauthorized access or use of which Customer becomes aware. Customer will be responsible for all use and misuse of the Subscription Service that occurs under Customer Users' login credentials, and for any breach of this Agreement by any Customer Users.

2.3 **Prohibited Use.** Customer will not, and will ensure that Customer Users do not: (a) “frame,” distribute, resell, or permit access to the Subscription Service by any third party other than for its intended purposes; (b) use the Subscription Service other than in compliance with applicable law; (c) interfere with the Subscription Service or disrupt any other user’s access to the Subscription Service; (d) reverse engineer, attempt to gain unauthorized access to the Subscription Service, or attempt to discover the underlying source code or structure of the Subscription Service; (e) submit to the Subscription Service any content or data that violates the Acceptable Content Policy, as updated by Smartsheet from time to time (a current version of which can be found at <https://www.smartsheet.com/acceptable-content-policy>) (“**Acceptable Content Policy**”); (f) submit to the Subscription Service any routine, device or other undisclosed feature, including a so-called time bomb, virus, software lock, drop dead device, malicious logic, worm, Trojan horse, or trap or back door or software routine, that is designed to delete, disable, deactivate, interfere with or otherwise harm any software, program, data, device, system or service, or which is intended to provide unauthorized access or to produce unauthorized modifications; or (h) use any robot, spider, data scraping or extraction tool, or similar mechanism with respect to the Subscription Service.

2.4 **Usage Limitations.** Customer’s subscription is subject to the limits on Licensed Users set forth in each Order, as well as the storage and other limitations set forth in the Subscription Limits Policy, as updated by Smartsheet from time to time (a current version of which can be found at <https://www.smartsheet.com/limits-policy>) (“**Subscription Limits Policy**”).

2.5 **Account Information.** Account Information will be provided to Smartsheet by Customer Users but Customer may provide certain Account Information (e.g., Customer User titles, departments, phone numbers, or profile pictures) for Customer Users when configuring Customer’s account. Except for email address, Customer Users may elect whether or not to display their Account Information within the Subscription Service. In the event that Account Information is provided by Customer, Customer represents and warrants that: (a) it has provided all required notice to Customer Users pursuant to applicable law, Customer policy, etc.; and (b) it has all rights, permissions, and consents necessary: (i) to provide the Account Information to Customer; and (ii) for the display of such Account Information within the Subscription Service. In accordance with Section 2.1(b) above, Smartsheet will refer to Customer any requests related to the Account Information that was provided by Customer, and will provide Customer reasonable assistance in order to facilitate Customer’s response to such requests, unless prohibited by law.

### **3. Customer Content; Processing of Data.**

3.1 **Disclosure.** The Subscription Service is designed to facilitate collaboration and sharing of Customer Content among Customer Users and, if elected by Customer Users, with third parties. Smartsheet will not have any responsibility for distribution, publication, display, or any other disclosure of Customer Content by Customer Users or Collaborators via the Subscription Service.

3.2 **Processing.** Customer agrees that Smartsheet may: (i) process the Customer Content to make the Subscription Service available to Customer; and (ii) process the Account Information as necessary to provide the Subscription Service, administer its business relationship with Customer (including for billing, customer support, and product-related communications), and as otherwise set forth in the Privacy Policy.

3.3 **Service Providers.** In addition, Smartsheet may allow service providers who act on Smartsheet’s behalf to process Customer Content and Account Information in connection with providing the Subscription Service, provided that: (a) such service providers are subject to confidentiality obligations that are substantially as protective of the Customer Content as those set forth in this Agreement; and (b) Smartsheet will be responsible for any breach of this Agreement by such service providers in connection with the provision of the Subscription Service.

3.4 **Security.** Smartsheet has implemented and will maintain commercially reasonable information security policies and safeguards, which include technical and organizational measures, designed to preserve the security, integrity, and confidentiality of the Customer Content and to protect it against unauthorized access and information security threats. Smartsheet’s current practices are described in *Schedule 1*. Smartsheet may update such practices from time to time; provided that the level of security provided for the Customer Content will not be materially degraded.

3.5 **Treatment at Termination.** The Subscription Service includes a feature that permits Customer, at any time during the Term, to obtain a zip file backup that includes: (a) Customer’s then-current file attachments in their native file formats; and (b) all other then-current Customer Content in an Excel file. Upon Customer’s request made prior to termination of this Agreement, Smartsheet will allow Customer’s SysAdmin(s) to have read-only access to the Subscription Service for the sole purpose of retrieving Customer Content for thirty (30) days following termination of this Agreement. Thereafter, Smartsheet has no obligation to retain, and may delete, Customer Content in accordance with Section 7 of *Schedule 1*.

3.6 **Ownership.** As between the parties, Customer retains all right, title, and interest in and to all Customer Content. Customer represents and warrants that it has all rights, permissions, and consents necessary: (a) to submit all Customer Content to the Subscription Service; (b) to grant Smartsheet the limited rights to process Customer Content as set forth in this Agreement; and (c) for any transfer or disclosure of Customer Content among or by Customer Users and Collaborators.

#### 4. **Additional Products and Services.**

4.1 **Connectors.** Customer may (if its subscription includes one or more Connectors) use Connectors to integrate the Subscription Service with Customer's accounts or subscriptions to third party services or applications. In such case, Customer Users may transfer information between the Subscription Service and such third party services or applications via the Connectors, resulting in the modification of Customer Content or the content and information stored in Customer's third party services or applications. Smartsheet will have no liability for modification or deletion of Customer Content or data in third party services or applications through use of a Connector by a Customer User.

4.2 **Online Training.** Customer may have access to the Training Resources. In such case, Smartsheet hereby grants Customer a worldwide, non-exclusive, non-transferable right to access and use the Training Resources during the Term for Customer's internal business purposes, pursuant to the terms and conditions herein. Customer acknowledges that the Training Resources are subject to change, and Smartsheet does not guarantee the availability of any particular content. The Training Resources are not part of the Subscription Service.

4.3 **Smartsheet Labs Apps.** Smartsheet may make Labs Apps available to all users of the Subscription Service. Customer Users are granted a worldwide, non-exclusive, non-transferable right to access and use the Labs Apps during the Term for Customer's internal business purposes, pursuant to the terms and conditions herein. Customer acknowledges that use of the Labs Apps is at Customer's sole risk and responsibility, and access to the Labs Apps may be terminated at any time. Labs Apps are made available without charge and are not part of the Subscription Service.

4.4 **Community Features.** Smartsheet may make public forums, online communities, or bulletin boards ("**Community Features**") available to all users of the Subscription Service. Customer Users are granted a worldwide, non-exclusive, non-transferable right to use the Community Features, pursuant to the terms and conditions herein. Customer Users who use the Community Features: (a) grant Smartsheet a worldwide, perpetual, non-exclusive, royalty-free, transferable right to use content posted by such Customer Users ("**Community Content**") to provide the Community Features and improve the Services; (b) acknowledge that Community Content may not be able to be deleted; (c) are responsible for all activity that occurs under their account, including any liability arising from their Community Content; and (d) agree to indemnify Smartsheet, its corporate affiliates, and their respective directors, employees, and agents and hold them harmless from any claims, demands, proceedings, investigations, or suits brought by a third party regarding such Customer User's Community Content. All Community Content (including any links to third party sites or applications) provided by Customer Users must comply with the Acceptable Content Policy. Smartsheet reserves the right to remove, edit, or reinstate any Community Content at its sole discretion, and without notice to the originating Customer User. Smartsheet disclaims all liability arising from the Community Content and use of the Community Features, including exposure to content that is potentially offensive, indecent, inaccurate, objectionable, or otherwise inappropriate. Customer acknowledges that use of the Community Features is at Customer's sole risk and responsibility, and access to the Community Features may be terminated at any time. The Community Features are made available without charge and are not part of the Subscription Service.

4.5 **Third Party Applications.** Third party applications and web services, including without limitation Partner Apps, may be available to Customer for use in connection with the Subscription Service. These applications and services are provided by third parties and are not part of the Subscription Service, except where otherwise specified. Third party applications and services are subject to any end user license agreements that accompany them, and Smartsheet has no liability whatsoever with respect to any third party applications and services. Notwithstanding the foregoing, the payment provisions (and only the payment provisions) of this Agreement apply with respect to Partner Apps purchased by Customer under an applicable Order.

#### 5. **Fees and Payment.**

5.1 **Fees; Payment.** In consideration of the Services, Customer will pay the fees specified in each Order and/or SOW. Smartsheet may raise the unit price specified in an Order for any Renewal Terms upon written notice to Customer (including via email) at least thirty (30) days in advance of the start of the Renewal Term. In the event that Customer selects a multi-year Subscription Term for an Order: (a) Customer may elect to pay the total fees for the Subscription Service at the outset in lieu of being invoiced annually; or (b) Customer will be invoiced the annual fees for the Subscription Service on or around the anniversary date of Subscription Effective

Date, even if Customer has terminated the Order or otherwise changed its subscription plan. Customer will reimburse Smartsheet for reasonable, out-of-pocket expenses incurred by Smartsheet in the course of providing Professional Services in accordance with *Schedule 2*. All fees are nonrefundable once paid, except as expressly otherwise provided in this Agreement or the applicable SOW or Order. Unless otherwise provided in the applicable Order or SOW, all amounts under this Agreement are payable in U.S. dollars net thirty (30) days from the date of the invoice. Other than income taxes imposed on Smartsheet, Customer will bear all taxes, duties, VAT and all other governmental charges (collectively, "taxes") resulting from this Agreement. If Customer is exempt from any applicable taxes, it will provide evidence reasonably satisfactory to Smartsheet of its tax exempt status. Customer will send payments according to the payment instructions provided to Customer by Smartsheet on the applicable invoice. If Customer requires a purchase order, vendor registration form, or other documentation, such requirement will in no way affect or delay Customer's obligation to pay any amounts due hereunder.

5.2 **Refunds.** In the event that Customer terminates this Agreement for Smartsheet's uncured breach pursuant to Section 6.4 or pursuant to Section 10.2, Customer will be entitled to a prorated refund of prepaid, unused fees for the Subscription Service and if applicable, the Training Resources. In the event that Customer terminates an SOW or an Order for Professional Services pursuant to Section 10.3, Customer will be entitled to a prorated refund of the prepaid, unused fees for the Professional Services.

5.3 **Reserved**

5.4 **Payment Processors and Resellers.** Customers may elect to purchase certain Services through an authorized reseller (or one of its partners) (each a "**Channel Partner**") or elect to pay for the Services under this Agreement through a third party who processes Customer's payments (each a "**Payment Processor**"). Customer's obligation for payment to, and relationship with, such Channel Partner or Payment Processor is between Customer and such Channel Partner or Payment Processor.

5.5 **Free Access to Add-Ons.** If Customer is provided with access to an Add-On at no charge, Customer acknowledges that such Add-On is made available to Customer on an "as is" basis without any warranty, support, maintenance, or other obligation of any kind. For the avoidance of doubt, Add-Ons provided without charge are not part of the Subscription Service, and Smartsheet may terminate Customer's access at any time, unless otherwise specified on the applicable Order. Any use of an Add-On at no charge is at Customer's sole risk and responsibility.

## 6. **Term and Termination.**

6.1 **Term.** This Agreement will remain in effect throughout the Term unless earlier terminated as set forth herein.

6.2 **Term; Non-Renewal of Orders.** Each Order remains in effect for the initial Subscription Term specified therein ("**Initial Term**") and any subsequent renewal periods mutually agreed on by the parties in writing (each a "**Renewal Term**," and collectively with the Initial Term, the "**Term**").

6.3 **Term of SOWs.** Each SOW remains in effect for the period specified therein. If no period is specified, the SOW will terminate once the Professional Services set forth in the SOW have been completed.

6.4 **Termination for Cause; Suspension.** Either party may terminate this Agreement immediately if the other party breaches any material provision of an applicable Order, SOW, or this Agreement, and fails to cure that breach within thirty (30) days of written notice from the non-breaching party identifying the breach. In addition, Smartsheet may suspend Customer's access to the Subscription Service immediately if: (a) Customer fails to make a payment for more than fifteen (15) days following its due date; or (b) Customer has (or Smartsheet reasonably suspects that Customer has) breached Section 2.3 or misappropriated or infringed Smartsheet's intellectual property or proprietary rights.

6.5 **Effect of Termination.** Upon expiration or termination of this Agreement for any reason: (a) all Orders and SOWs under this Agreement will terminate; (b) all rights and obligations of the parties hereunder will cease (except as set forth in Section 6.6 below); (c) Customer will remain obligated to pay for Professional Services rendered through the effective date of termination; and (d) Customer will not be entitled to any refund of fees (except as set forth in Section 5.2 above).

6.6 **Survival.** The following sections will survive termination or expiration of this Agreement: 3.2 (Processing), 3.5 (Treatment at Termination), 3.6 (Ownership), 4.4 (Community Features), 4.5 (Third Party Applications), 5.1 (Fees; Payment) (with respect to amounts that are accrued but unpaid as of the effective date of termination), 5.5 (Free Access to Add-Ons), 6.6 (Survival), 7 (Proprietary Rights),

8 (Confidentiality), 11 (Limitation of Liability; Damages Exclusion), 12 (Indemnification), 15 (Non-Solicitation), 17 (Notices), 19 (Entire Agreement), and 20 (General).

**7. Proprietary Rights.** As between the parties, Smartsheet retains all right, title and interest in and to: (a) the Services, Work Product (except for any Customer Confidential Information or Customer trademarks used to develop or incorporated into Work Product), Labs Apps, Training Resources, Community Features, and the technology and software used to provide them, and all intellectual property and proprietary rights therein; and (b) all electronic and print documentation and other content and data (excluding Customer Content and Account Information) made available through the Services. Except for the licenses as set forth in this Agreement, this Agreement does not convey any of Smartsheet's intellectual property or proprietary rights to anyone, including Customer. Customer agrees that Smartsheet will have a perpetual right to use and incorporate into the Services, Work Product, Labs Apps, Training Resources, or Community Features any feedback or suggestions for enhancement that Customer or a Customer User provides to Smartsheet, without any obligation of compensation.

## **8. Confidentiality.**

**8.1 Confidential Information.** "**Confidential Information**" means all non-public, proprietary business, technical, legal, or financial information disclosed or learned in connection with this Agreement that the Disclosing Party has identified as confidential at the time of disclosure or that, based on the nature of the information or circumstances surrounding its disclosure, the Receiving Party should treat as confidential. Confidential Information does not include: (a) Customer Content or Account Information; (b) information that was generally known to the public at the time disclosed to the Receiving Party; (c) information that becomes generally known to the public (other than through a breach of this Section 8 by the Receiving Party) after disclosure to the Receiving Party; (d) information that was in the Receiving Party's possession free of any obligation of confidentiality prior to disclosure by the Receiving Party; (e) information that is rightfully received by the Receiving Party from a third party without any restriction on disclosure; or (f) information that was independently developed by the Receiving Party without reference to or use of Disclosing Party's Confidential Information; or (g) information required to be disclosed by compulsory judicial or administrative process or by law or regulation. If either party is required to disclose Confidential Information of the Disclosing Party under clause (g) above, Receiving Party shall first give Disclosing Party notice and shall provide such information as may reasonably be necessary to enable Disclosing Party to take action to protect its interests. ALL CONFIDENTIAL INFORMATION IS PROVIDED "AS IS." NEITHER PARTY MAKES ANY WARRANTIES, EXPRESSED OR IMPLIED, CONCERNING THE ACCURACY OR COMPLETENESS OF ITS CONFIDENTIAL INFORMATION.

**8.2 Use and Disclosure of Confidential Information.** The Receiving Party: (a) will not use the Disclosing Party's Confidential Information for any purpose except in connection with this Agreement; (b) will not disclose, give access to, or distribute any of the Disclosing Party's Confidential Information to any third party, except to the extent expressly authorized in a separate written agreement signed by both parties; and (c) will take reasonable security precautions (which will be at least as protective as the precautions it takes to preserve its own Confidential Information of a similar nature) to keep the Disclosing Party's Confidential Information confidential. Notwithstanding the foregoing, the Receiving Party may disclose Confidential Information to those of its employees, directors, affiliates, advisors, agents, contractors, and other representatives ("**Representatives**") who need to know such information, provided that each such Representative is bound to protect the Confidential Information by confidentiality obligations substantially as protective as this Agreement. The Receiving Party will be responsible for its Representatives' disclosure or use of the Disclosing Party's Confidential Information in violation of this Section 8. The Receiving Party will promptly notify the Disclosing Party upon discovery of any unauthorized disclosure or use of the Disclosing Party's Confidential Information, or any other breach of this Section 8, by it or its Representatives. The Receiving Party's (and its Representatives') obligations under this Section 8 cease to apply to information upon the later of: (i) the termination of this Agreement; or (ii) after three (3) years have passed from the date on which it was first disclosed.

**8.3 Return of Materials.** Upon written request by the Disclosing Party, the Receiving Party will: (a) either return or destroy all documents and media in its possession or control that contain the Disclosing Party's Confidential Information; and (b) certify its compliance with this Section 8.3 in writing. Notwithstanding the foregoing, the Receiving Party will not be obligated to erase Confidential Information of the Disclosing Party that is contained in an archived computer system backup that was made in accordance with the Receiving Party's security and/or disaster recovery procedures; provided, however, that any such Confidential Information contained in such archived computer system backup will be subject to this Section 8.

**8.4 Intellectual Property; No Obligation to Disclose.** The Disclosing Party retains all of its rights, title, and interest in and to its Confidential Information, including all intellectual property and proprietary rights therein. The disclosure of Confidential Information to the Receiving Party does not grant or convey any right of ownership of such Confidential Information. The Receiving Party understands that nothing in this Agreement requires the disclosure of any Confidential Information; provided that if Smartsheet is the

Receiving Party, Customer understands that it may not be able to receive the full benefit of the Subscription Service without disclosure of certain Confidential Information.

8.5 **Required Disclosures.** The Receiving Party may disclose Confidential Information to the extent required by law or legal process. In such cases, however, the Receiving Party will (except to the extent prohibited by law or legal process from doing so): (a) give the Disclosing Party prior notice of such disclosure so as to afford the Disclosing Party a reasonable opportunity to appear, object, and obtain a protective order or other appropriate relief regarding such disclosure; (b) use diligent efforts to limit disclosure to that which is legally required; and (c) reasonably cooperate with the Disclosing Party, at the Disclosing Party's expense, in its efforts to ensure that the Confidential Information will be subject to a protective order or other legally available means of protection.

8.6 **Permitted Disclosures.** In the event that Customer elects to utilize a Payment Processor or Channel Partner to pay for or order Services respectively, Customer acknowledges and agrees that its Confidential Information, this Agreement, and any Orders and SOWs may be disclosed to such Channel Partner or Payment Processor. In the event that Customer placed an order for Services with an affiliate of a Channel Partner, Customer agrees that Smartsheet may disclose the above-described information to the affiliate of the Channel Partner to which the Customer placed the order with.

8.7 **Injunctive Relief.** The Receiving Party acknowledges that any actual or threatened breach of this Section 8 may cause irreparable, non-monetary injury to the Disclosing Party, the extent of which may be difficult to ascertain. Accordingly, the Disclosing Party is entitled to (but not required to) seek injunctive relief in addition to all remedies available to the Disclosing Party at law and/or in equity, to prevent or mitigate any breaches of this Section 8 with respect to the Disclosing Party's Confidential Information or any damages that may otherwise result from those breaches.

9. **Privacy.** Customer acknowledges and agrees that use of the Subscription Service is subject to Smartsheet's privacy practices, which are described in the Privacy Policy, and may be updated from time to time (a current version of which can be found at <https://www.smartsheet.com/privacy>) ("**Privacy Policy**"). For the avoidance of doubt, the Privacy Policy details Smartsheet's handling and treatment of Customer Content and Account Information.

## 10. **Representations and Warranties; Disclaimer.**

10.1 **Authority Warranty.** Each party represents and warrants that it has the necessary authority to enter into this Agreement.

10.2 **Limited Warranty for Subscription Service.** Smartsheet represents and warrants that the Subscription Service will operate substantially as described in the online product descriptions written or created by Smartsheet and made available on the Site. Customer must notify Smartsheet in writing of any alleged failure by Smartsheet to comply with this warranty within thirty (30) days of such failure. Upon receipt of such notice, Smartsheet will either: (a) use commercially reasonable efforts to cure or correct the failure, or (b) terminate the applicable Order and issue a prorated refund for the terminated portion of the Subscription Services. This Section 10.2 sets forth Customer's exclusive rights and remedies and Smartsheet's sole liability in connection with the provision of the Subscription Service.

10.3 **Limited Warranty for Professional Services.** Smartsheet represents and warrants that the Professional Services will be provided in a competent and workmanlike manner in accordance with the Order or SOW, as applicable. Customer must notify Smartsheet in writing of any alleged failure by Smartsheet to comply with this warranty within thirty (30) days following delivery of the Professional Services. Upon receipt of such notice, Smartsheet will either: (a) use commercially reasonable efforts to cure or correct the failure, or (b) terminate the Professional Services and issue a prorated refund for the terminated portion of the Professional Services. This Section 10.3 sets forth Customer's exclusive rights and remedies and Smartsheet's sole liability in connection with the performance of the Professional Services.

10.4 **Disclaimer.** Customer acknowledges that the Subscription Service, Training Resources, Labs Apps, and Community Features may experience periods of downtime, including but not limited to scheduled maintenance. EXCEPT FOR THE LIMITED WARRANTIES SET FORTH ABOVE IN THIS SECTION 10, SMARTSHEET MAKES NO REPRESENTATIONS OR WARRANTIES WITH RESPECT TO THE SUBSCRIPTION SERVICE, TRAINING RESOURCES, LABS APPS, COMMUNITY FEATURES, PROFESSIONAL SERVICES, WORK PRODUCT, AND ANY INFORMATION OR MATERIALS RELATED THERETO OR MADE AVAILABLE THEREFROM, WHETHER EXPRESS OR IMPLIED. SMARTSHEET SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, AND ACCURACY. SMARTSHEET DOES NOT WARRANT THAT THE SUBSCRIPTION SERVICE, TRAINING RESOURCES, LABS APPS, OR COMMUNITY FEATURES WILL BE ERROR-FREE OR OPERATE WITHOUT INTERRUPTIONS OR DOWNTIME. SMARTSHEET

MAKES NO REPRESENTATIONS AND WARRANTIES WITH RESPECT TO THE THIRD PARTY APPLICATIONS AND COMMUNITY CONTENT, AND EXPRESSLY DISCLAIMS ALL RESPONSIBILITY THEREFOR.

**11. Liability Limitation; Damages Exclusion.** NEITHER PARTY WILL BE LIABLE FOR ANY INCIDENTAL, CONSEQUENTIAL, SPECIAL, INDIRECT, OR PUNITIVE DAMAGES IN CONNECTION WITH ANY CLAIM OF ANY NATURE ARISING UNDER THIS AGREEMENT, EVEN IF IT HAS BEEN GIVEN ADVANCE NOTICE OF SUCH POSSIBLE DAMAGES. EACH PARTY'S ENTIRE LIABILITY UNDER THIS AGREEMENT WILL NOT EXCEED THE AMOUNT ACTUALLY PAID BY CUSTOMER TO SMARTSHEET UNDER THE ORDER FORM OR SOW TO WHICH THE LIABILITY RELATES DURING THE TWELVE (12) MONTHS PRIOR TO THE DATE ON WHICH THE LIABILITY AROSE. THE FOREGOING LIMITATIONS DO NOT APPLY WITH RESPECT TO CLAIMS OR OBLIGATIONS ARISING UNDER SECTIONS 2.3 (PROHIBITED USE), 5.1 (FEES; PAYMENT), 8 (CONFIDENTIALITY), OR 12 (INDEMNIFICATION).

**12. Indemnification.**

**12.1 By Smartsheet.** Smartsheet will defend Customer, and their respective directors, employees, and agents ("**Customer Indemnified Parties**") from and against any claims, demands, proceedings, investigations, or suits brought by a third party: (i) alleging that Customer's use of the Subscription Service or Work Product in accordance with this Agreement infringes any third party intellectual property rights (each an "**Infringement Claim**"); and (ii) any personal injury, death or property damage caused by any alleged act, omission, error, fault, mistake or negligence of Smartsheet, its employees, agents, or representatives in connection with Professional Services physically provided on Customer premises (each and "**Indemnifiable claim**"). Smartsheet will indemnify Customer Indemnified Parties for any damages, reasonable attorneys' fees, and costs resulting from an Indemnifiable Claim and finally awarded against Customer or agreed to be paid by Customer in a written settlement approved by Smartsheet in writing. Notwithstanding the foregoing, Smartsheet will have no obligation under this Section 12.1 to the extent any alleged indemnifiable claim arises from: (a) Customer's use of the Subscription Service or Work Product in combination with technology or services not provided by Smartsheet, if the infringement would not have occurred but for such combination; (b) Customer Content; (c) Smartsheet's compliance with designs, specifications, or instructions provided by Customer if such infringement would not have occurred but for such designs, specifications, or instructions; (d) use by Customer after notice by Smartsheet to discontinue use (provided that Smartsheet subsequently refunds amounts paid for the allegedly infringing material after Customer's discontinuance of use); (e) the negligence or willful misconduct of Customer, the State of Oregon, or their agents, officials, employees or Customer Users; (f) breach of this Agreement by Customer, the State of Oregon, or their agents, officials, employees or Customer Users. If Customer is enjoined or otherwise prohibited from using any of the Subscription Service or Work Product or a portion thereof based on an Infringement Claim, then Smartsheet will, at its sole expense and option, either: (i) obtain for Customer the right to use the allegedly infringing portions of the Subscription Service or Work Product; (ii) modify the allegedly infringing portion of the Subscription Service or Work Product so as to render it non-infringing without substantially diminishing or impairing its functionality; or (iii) replace the allegedly infringing portions of the Subscription Service or Work Product with non-infringing items of substantially similar functionality. If Smartsheet determines that the foregoing remedies are not commercially reasonable, then Smartsheet may terminate the applicable Order or SOW and issue a prorated refund of fees prepaid by Customer for the terminated portion of the Initial Term or then-current Renewal Term. This Section 12.1 sets forth Smartsheet's sole liability and Customer's sole and exclusive remedy for any actual or alleged infringement by Smartsheet of any third party intellectual property rights. Smartsheet will have control of the defense and settlement of any claim that is subject to Section 12.1; however, neither Smartsheet nor any attorney engaged by Smartsheet will defend the claim in the name of the State of Oregon or any agency of the State of Oregon, nor purport to act as legal representative of the State of Oregon or any of its agencies, without the approval of the Attorney General, nor will Smartsheet settle any claim on behalf of the State of Oregon without the approval of the Attorney General. The State of Oregon may, at its election and expense, assume its own defense and settlement in the event that the State of Oregon determines that Smartsheet is prohibited from defending the State of Oregon, is not adequately defending the State of Oregon's interests, or that an important governmental principle is at issue and the State of Oregon desires to assume its own defense.

**12.2 By Customer.** To the extent permitted by Oregon law, Customer will defend or otherwise pay the reasonable defense costs of Smartsheet, its corporate affiliates, and their respective directors, employees, and agents ("**Smartsheet Indemnified Parties**") from and against any claims, demands, proceedings, investigations, or suits brought by a third party arising out of: (a) the Customer Content; or (b) Customer's use of the Subscription Service or Work Product in violation of this Agreement or applicable law. Customer will indemnify Smartsheet Indemnified Parties for any damages, reasonable attorney's fees, and costs resulting from a claim that Customer is obligated to defend and finally awarded against Smartsheet or agreed to be paid by Smartsheet in a written settlement approved by Customer in writing. To the extent Customer is required under the Agreement to indemnify or hold Smartsheet harmless against claims brought by third parties against Smartsheet, Customer's obligation to defend, pay defense costs or indemnify is subject to the limitations of Article XI, section 7 of the Oregon Constitution and the Oregon Tort Claims Act, ORS 30.260 through 30.300.

**12.3 Conditions.** The indemnifying party's obligations under this Section 12 are contingent on the indemnified party: (a) promptly providing written notice of the claim to the indemnifying party; (b) giving the indemnifying party sole control of the defense and settlement of the claim (provided that any settlement unconditionally releases the indemnified party of all liability and does not make any admissions on behalf of the indemnified party or include payment of any amounts by the indemnified party); and (c) providing the indemnifying party, at the indemnifying party's expense, all reasonable assistance in connection with such claim. The indemnified party may participate in the defense of the claim at its sole cost and expense.

**13. Insurance.** Smartsheet will, at its expense, procure and maintain commercially reasonable insurance coverage during the Term. Specific information about such insurance coverage will be included in Smartsheet's certificate of insurance, as updated by Smartsheet from time to time (a current version of which can be found at [www.smartsheet.com/insurance](http://www.smartsheet.com/insurance)) ("**Insurance Policy**").

**14. Publicity.** Unless Customer has specifically notified Smartsheet to the contrary in writing (email notice permitted), Smartsheet may disclose Customer as a customer of Smartsheet, and may use Customer's name and logo on the Site and in Smartsheet's promotional materials. Smartsheet will request Customer's prior consent for any other uses; such consent to be deemed given if Customer fails to respond to a request within five (5) business days.

**15. Non-Solicitation.** During the Term and for a period of one (1) year thereafter, Customer will not: (a) hire or attempt to hire any of Smartsheet's employees; or (b) solicit, induce, recruit or encourage any of Smartsheet's employees to terminate their relationship with Smartsheet. Notwithstanding the foregoing, Customer will not be precluded from hiring a Smartsheet employee pursuant to a general solicitation of employment (e.g., posting a job opening) not specifically directed at Smartsheet employees.

**16. Federal Government Customers.** The Subscription Service is a "commercial item" consisting of "commercial computer software" as defined in FAR 2.101. Smartsheet provides the Subscription Service for federal government end use in accordance with FAR 12.211 (Technical Data) and FAR 12.212 (Computer Software), and for Department of Defense agencies in accordance with DFAR 227.7202 (Commercial Computer Software and Commercial Computer Software Documentation).

**17. Notices.** Customer may request notification of changes to the Policies via <http://www.smartsheet.com/policychanges>. Except where this Agreement permits notice via email, all notices provided under this Agreement must be in writing and sent via internationally recognized delivery service or certified U.S. mail. Notices sent via email will be deemed given one (1) business day after being sent; notices sent via any other authorized delivery method will be deemed given five (5) business days after being sent. Notices must be addressed as follows: if to Smartsheet, to *Attn: Legal Affairs, 10500 NE 8<sup>th</sup> Street, Suite 1300, Bellevue WA 98004*, and for notices permitted to be sent via email, to [legal@smartsheet.com](mailto:legal@smartsheet.com); and, if to Customer, to *Attn: Legal Affairs* at the billing address set forth on the initial Order (and, for notices permitted to be sent via email, to the SysAdmin email address set forth on the initial Order).

**18. Assignment.** Either party may assign this Agreement and any Orders or SOWs in connection with a merger or similar transaction, or to a company acquiring substantially all of its assets, equity, or business, without any requirement to obtain permission for such assignment; otherwise, neither party may assign this Agreement or any Orders or SOWs to a third party without the advance written consent of the other party. This Agreement and any Orders or SOWs will bind and benefit the parties, their successors, and their permitted assigns.

**19. Entire Agreement.** This Agreement including the attached State of Oregon Rider to End User License Agreement and any Orders or SOWs represent the entire agreement between Smartsheet and Customer with respect to Customer's use of the Subscription Service and accompanying Professional Services. In the event of a conflict between the payment terms in this Agreement and any Order or SOW, the payment terms in the Order or SOW will govern and control. In the event of any other conflict between this Agreement and any Order or SOW, this Agreement will govern and control. This Agreement and any Orders or SOWs expressly supersede: (a) any terms or conditions stated in a Customer purchase order or similar document, whether submitted or executed before or after the Subscription Start Date set forth in the applicable Order; and (b) any other contemporaneous or prior agreements or commitments regarding the Subscription Service or the other subject matter of this Agreement. For the avoidance of doubt, this Agreement will not supersede any non-disclosure agreement entered into by the parties governing information exchanged prior to the execution of this Agreement or for purposes unrelated to this Agreement. This Agreement and any Orders or SOWs may be modified only in a written amendment or agreement executed by an authorized representative of each party. After submission and acceptance of an Order incorporating this Agreement, and during the electronic provisioning of the Subscription Service, all users will be presented with the requirement to "agree" to a click-through agreement ("**Smartsheet User Agreement**") before their accounts can be successfully provisioned. Notwithstanding any language to the contrary found in the Smartsheet User Agreement, Smartsheet hereby expressly agrees that such Smartsheet User Agreement will be considered null and void with respect to Customer Users and

will not supersede this Agreement. Smartsheet also expressly agrees that any end-user agreement governing use of the Training Resources and Community Features by Customer Users will be considered null and void and will not supersede this Agreement.

**20. General.** Neither party is liable for delay or default under this Agreement if caused by conditions beyond its reasonable control. This Agreement and any Orders or SOWs are governed by the laws of the State of Washington, without regard to its conflicts of law rules, and each party hereby consents to exclusive jurisdiction and venue in the state and federal courts located in Seattle, Washington for any dispute arising out of this Agreement or any Orders or SOWs. The waiver of any breach of any provision of this Agreement or of any Order or SOW will be effective only if in writing, and no such waiver will operate or be construed as a waiver of any subsequent breach. If any provision of this Agreement or of any Order or SOW is held to be unenforceable, then that provision is to be construed either by modifying it to the minimum extent necessary to make it enforceable (if permitted by law) or disregarding it (if not permitted by law), and the rest of this Agreement or the relevant Order or SOW is to remain in effect as written. Notwithstanding the foregoing, if modifying or disregarding the unenforceable provision would result in failure of an essential purpose of this Agreement or any Order or SOW, the entire Agreement or the relevant Order or SOW is to be held null and void.

**21. Definitions.**

“**Acceptable Content Policy**” has the meaning given in Section 2.3.

“**Account Information**” means personal information about Customer Users provided to Smartsheet in connection with the creation or administration of Customer User accounts. For example, Account Information includes names, email addresses, and other profile information associated with a Customer User account. Account Information does not include aggregate or de-identified information compiled from Account Information that does not identify Customer, any Customer User, or any other individual.

“**Add-Ons**” means optional features and applications developed by Smartsheet and purchased and included as part of Customer’s subscription, including Connectors, Premium Apps, and the other Add-Ons indicated in each Order.

“**Affiliates**” has the meaning given in Section 5.3.

“**Channel Partner**” has the meaning given in Section 5.4.

“**Collaborator**” means a user with a Smartsheet login invited to access and use a sheet.

“**Community Content**” has the meaning given in Section 4.4.

“**Community Features**” has the meaning given in Section 4.4.

“**Confidential Information**” means all financial, technical, or business information of the Disclosing Party that the Disclosing Party designates as confidential at the time disclosed to, or learned by, the Receiving Party, or that the Receiving Party reasonably should understand to be confidential based on the nature of the information or the circumstances surrounding its disclosure. For the avoidance of doubt, Confidential Information does not include Customer Content or Account Information.

“**Connector**” means an Add-On developed by Smartsheet that allows for Customer Content to be exported or imported from Customer’s account or subscription to a third party service or application.

“**Customer Content**” means data, information, file attachments, text, images, personally identifiable information, and other content that is (a) uploaded or submitted to the Subscription Service by Customer Users; and/or (b) collected by Customer Users from third parties using “web forms” or similar features of the Subscription Service. Customer Content does not include usage, statistical, and technical information related to Customer Content that does not reveal the actual contents of the Customer Content.

“**Customer Indemnified Parties**” has the meaning given in Section 12.1.

“**Customer User**” means, collectively, all (a) Licensed Users; (b) SysAdmins (regardless of whether or not they are Licensed Users); and (c) any Non-Licensed Users.

“**Disclosing Party**” means the party disclosing Confidential Information to the Receiving Party.

“**Infringement Claim**” has the meaning given in Section 12.1.

“**Initial Term**” has the meaning given in Section 6.2.

“**Labs Apps**” means any pre-release, alpha or “Smartsheet Labs” Apps that Smartsheet may make available to Customer separately from the Subscription Service.

**“Licensed User”** means a user with certain rights to use the Subscription Service on Customer’s behalf. Customer’s SysAdmin(s) may designate any user with a registered Smartsheet login as a Licensed User.

**“Non-Licensed User”** means a user with a Smartsheet login who (a) is not a Licensed User and (b) accepts an invitation to join Customer’s account and have his or her usage managed by Customer’s SysAdmin.

**“Order”** means an order form setting forth commercial details of a subscription to the Subscription Service (including any Add-Ons) and the purchase of associated Professional Services (if any), and incorporating this Agreement by reference.

**“Partner Apps”** means applications developed and owned by third parties for which Customer purchases a license from Smartsheet under this Agreement and are made available to Customer exclusively in accordance with the terms and conditions of the end user license agreements accompanying them (except that the payment provisions of this Agreement will apply).

**“Payment Processor”** has the meaning given in Section 5.4.

**“Policies”** means the Acceptable Content Policy, Privacy Policy, Subscription Limits Policy, and Insurance Policy.

**“Premium Apps”** means an Add-On developed by Smartsheet that allows for Customer Content to be viewed or manipulated in a separate interface.

**“Privacy Policy”** has the meaning given in Section 9.

**“Professional Services”** means implementation, configuration, integration, training, advisory, and other professional services related to the Subscription Service that are specified in an SOW or Order.

**“Receiving Party”** means the party receiving or accessing Confidential Information of the Disclosing Party.

**“Representatives”** has the meaning given in Section 8.2.

**“Renewal Term”** has the meaning given in Section 6.2.

**“Services”** has the meaning given in Section 2.1.

**“Site”** means Smartsheet’s website at <http://www.smartsheet.com>.

**“Smartsheet Indemnified Parties”** has the meaning given in Section 12.2.

**“Smartsheet User Agreement”** has the meaning given in Section 19.

**“SOW”** means a statement of work or similar document that describes Professional Services, establishes the fees for the Professional Services, references this Agreement, and is executed by an authorized representative of each party.

**“Subscription Limits Policy”** has the meaning given in Section 2.4.

**“Subscription Service”** means Smartsheet’s internet-delivered work collaboration service.

**“SysAdmin”** means a user with certain administrative control rights over Customer’s subscription plan.

**“Term”** has the meaning given in Section 6.2.

**“Training Resources”** means Smartsheet’s online training portal and the content therein.

**“Work Product”** means all software, code, materials, ideas, deliverables, and items that are conceived, made, discovered, written, or created by Smartsheet’s personnel in connection with providing the Professional Services.

**ACKNOWLEDGED AND AGREED BY SMARTSHEET:**

By:  
Name:  
Title:  
Date:

**ACKNOWLEDGED AND AGREED BY CUSTOMER:**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**SCHEDULE 1**  
**SECURITY PRACTICES**

**1. Definitions.**

Capitalized terms used but not defined in this schedule have the meanings ascribed to them in the Agreement.

“**Notices**” means any filings, communications, notices, press releases, or reports related to any Security Incident.

“**Personal Data**” means Customer Content that relates to an identified or identifiable natural person.

“**Smartsheet Information Systems**” means any Smartsheet systems used to store Customer Content in connection with providing the Subscription Service.

**2. Collecting, Using and Sharing Customer Content.**

2.1 Smartsheet will use and access Customer Content only in accordance with the Agreement or as otherwise instructed by Customer in writing. Subject to the Agreement, if requested during the term of the Agreement, and in any event upon expiration or termination, Smartsheet will promptly return or make available to Customer any Customer Content.

2.2 Smartsheet will have no liability for any distribution, display or disclosure of Customer Content by Customer Users or Collaborators via the Subscription Service, regardless of whether such distribution, display or disclosure results in a violation of any applicable privacy or data protection laws. Customer further acknowledges that Smartsheet does not review, monitor or modify any Customer Content in providing the Subscription Service and accordingly that (1) Smartsheet’s sole notice obligation in connection with a Security Incident (as defined in Section 5 below) will be to notify Customer as set out in Section 5 below, (2) Smartsheet has no obligation to directly notify any affected individual of such access or disclosure, and (3) Customer is solely responsible to comply with its own breach notification obligations under applicable laws with respect to its Customer Content and any personal information incorporated therein. Except to the extent expressly otherwise provided herein, Customer is solely responsible for its own compliance with applicable privacy and data protection laws in connection with Customer Content and Customer’s and its Customer Users’ use of the Subscription Service. Automated modification of Customer Content resulting from the normal functioning of the Subscription Service (for example, the truncation of text entered into a sheet where the number or type of characters entered exceeds the allowable amount) will not be deemed to violate the prohibition in this Section on modifying Customer Content.

2.3 Smartsheet will use diligent efforts to evaluate and select suppliers and subSmartsheets that provide (at a minimum) substantially the same level of security required by this Schedule in connection with the Subscription Service. Notwithstanding the foregoing, the Premium Apps were developed outside of the Subscription Service, are made available to Customer through a separate interface, and accordingly, the security practices for the Premium Apps differ from the Subscription Service. Customer acknowledges that Smartsheet is making efforts to align the security practices for the Premium Apps with the security practices for the Subscription Service, and in no event will the security practices for the Premium Apps be less than commercially reasonable.

2.4 To the extent permitted by applicable law, Smartsheet will notify Customer promptly and act only upon Customer’s instruction concerning any request by law enforcement or other governmental authority for disclosure of Customer Content.

**3. Protecting Customer Content**

3.1 Smartsheet will implement appropriate physical, organizational and technical controls designed to ensure the security, integrity and confidentiality of Customer Content. Smartsheet must maintain formal written policies and procedures for the administration of information security throughout its organization.

3.2 Smartsheet’s (or its service providers’) physical security controls for the Subscription Service will include, at a minimum, the following controls on all locations where Customer Content may be stored and processed:

- a. All servers and/or network equipment used to store or process Customer Content must be kept in a datacenter that provides physical security controls that meet or exceed the following physical security policy requirements.

- i. For datacenters containing servers and/or network equipment used to provision the Subscription Service to Customer, controls must be implemented to mitigate the risk of power failures (e.g., surge protectors, uninterruptible power supplies, and generators), and environmental conditions (e.g., temperature and humidity).
- ii. Datacenter physical access must be monitored, recorded, and controlled with physical access rights reviewed at minimum annually. Physical access logs detailing access must be stored for a period of one (1) year to the extent permitted by local law. If not staffed 24x7, alarms and entry point security cameras must be installed for off-hours access monitoring with recordings retained for at least thirty (30) days.
- iii. All datacenter personnel, Smartsheet personnel, and authorized visitors must be issued identification badges. Identification badges must be visibly displayed at all times while in the datacenter. Visitor identification badges must be easily distinguishable from datacenter personnel identification badges and must be surrendered prior to leaving the datacenter. Visitor logs will be made and retained for at least one year. Visitors will be continually escorted while accessing the datacenter.

### 3.3 Organizational security controls will include the following at a minimum:

- a. Smartsheet will require its personnel with access to Customer Content to sign and comply with confidentiality agreements.
- b. Smartsheet personnel with clear text access to Customer Content must participate in appropriate information security awareness training provided by Smartsheet as part of the process of onboarding and thereafter while such personnel have access to Customer Content.
- c. Smartsheet personnel are to be given no more access to Customer Content than is required to perform their respective duties in support of the Subscription Service, and are to be provided such access only for as long as reasonably necessary for that purpose. Smartsheet must ensure each Smartsheet-internal interactive account through which Customer Content may be accessed is attributable to a single individual with a unique ID and each account must require authentication prior to accessing Customer Content. Smartsheet must implement processes to support the secure creation, modification, and deletion of these accounts. Smartsheet must review and update access rights for internal accounts at least annually.
- d. Smartsheet will undertake reasonable measures to terminate Smartsheet personnel access to Customer Content no later than the date of personnel separation or personnel transfer to a role no longer requiring access to Customer Content.
- e. Smartsheet must implement physical and/or logical access controls designed to prevent unauthorized access to Customer Content.
- f. Customer Content may not be stored or accessed by Smartsheet personnel on personal accounts (e.g., individual email or cloud services accounts) or stored locally on personally owned computers, devices or media.
- g. Customer Content may not be stored on any Smartsheet-controlled computers, devices or detachable media unless data on such devices or media are encrypted when durably stored.

### 3.4 Technical security controls will include the following at a minimum:

- a. Smartsheet Information Systems must enforce the following authentication token requirements for Smartsheet-internal accounts:
  - i. Authentication tokens should be restricted to systems that require an explicit identity to operate. Policies and controls must be developed with maximal privilege that identity provides in mind.
  - ii. Knowledge Tokens:
    - Knowledge tokens will never be stored in a durable format unless that format is protected by another knowledge token.

- Must only be changed as part of an established change management process.

iii. Possession Tokens:

- Possession tokens must have a chain of trust associated with initial trust to them. The surface area of the chain of trust must be as small as technically possible.
- Must be globally revocable.

iv. Escrow Tokens:

- The trust anchor must use an escrow mechanism that requires at least 50% of escrow participants for full recovery.

- b. Smartsheet will implement and maintain controls designed to prevent or detect unauthorized access and intrusion to Smartsheet Information Systems.
- c. Smartsheet will implement and maintain controls designed to prevent or detect malicious or unauthorized command execution on Smartsheet Information Systems. Such controls will include consideration of common attack patterns such as those utilized to exploit disclosed software vulnerabilities or to install unauthorized software.
- d. Smartsheet will maintain documented change management procedures that govern all changes made to Smartsheet Information Systems and the Subscription Service application.
- e. Development and testing environments for Smartsheet Information Systems must be physically and/or logically separated from production environments and must not contain Customer Content unless specified in the Agreement.
- f. Workstations used by Smartsheet personnel to administer the systems that process, transmit or store Customer Content must not be left authenticated when unattended, include automatic locking due to inactivity, and must require authentication when unlocking.
- g. Smartsheet must certify destruction in accordance with National Institute of Standards and Technology (NIST) SP 800-88 recommendations (or a successor standard widely used in the industry) to render Customer Content unrecoverable prior to disposal of media.
- h. All Smartsheet-internal administrative sessions on Smartsheet Information Systems must be authenticated and encrypted. Smartsheet will maintain processes to disable accounts for personnel who leave Smartsheet's employ or whose job assignments no longer require access. In addition, access will be reviewed on a quarterly basis.
- i. Smartsheet will maintain cryptographic standards mandating authorized algorithms, key length requirements, and key management processes consistent with then-current NIST recommendations. Customer Content must be encrypted in accordance with Smartsheet cryptographic standards when transferred over untrusted networks.
- j. Network security devices for Smartsheet-internal account access must allow only authorized connections and rule sets must be reviewed at minimum semi-annually.
- k. Smartsheet will perform risk analysis of identified security flaws or vulnerabilities in the Subscription Service and will remediate such flaws or vulnerabilities in priority order in accordance with Smartsheet security policies.
- l. Any Smartsheet personnel accessing Smartsheet's production network remotely must be authenticated using two-factor authentication or similar method and such transmissions must be encrypted.
- m. Smartsheet must implement hardening and configuration requirements consistent in approach with SANS Institute, National Institute of Standards and Technology (NIST), and/or Center for Internet Security (CIS) recommendations, or successor standards widely used in the industry.

- n. Smartsheet must develop and maintain an incident management plan to be used by Smartsheet personnel to guide action when responding to an incident.

3.5 Smartsheet uses external security experts to conduct penetration testing of the Subscription Service. Such testing (a) will be performed at least annually; (b) will be performed by independent third party security professionals at Smartsheet's selection and expense; and (c) will result in the generation of a penetration test report ("**Pen Test Report**"), which will be Smartsheet's Confidential Information. Pen Test Reports will be made available to Customer upon written request and no more than annually, and will be Smartsheet Confidential Information as described in the Agreement. Notwithstanding the foregoing, Customer acknowledges and understands that Smartsheet is the process of penetration testing the Premium Apps and they will not be included in a Pen Test Report unless otherwise specified by Smartsheet in writing.

#### **4. System Availability**

4.1 Smartsheet must maintain (or, with respect to systems controlled by its service providers, ensure that such service providers maintain) a disaster recovery ("**DR**") program designed to recover the Subscription Service availability after a disaster. At a minimum, the DR program should include the following elements:

- a. Smartsheet's operational procedures must include procedures to regularly and programmatically create retention copies of Customer Content for the purpose of recovering lost or corrupted data. Such retention copies will be regularly validated.
- b. Smartsheet must maintain inventories that list all critical Smartsheet Information Systems. The inventories must be updated at minimum annually.
- c. DR plans must be reviewed and updated at minimum annually.
- d. Smartsheet will conduct DR tests at least annually. DR tests will be designed to validate DR procedures and recoverability of the service in accordance with the then current DR plan.

#### **5. Security Incidents**

5.1 If Smartsheet becomes aware of confirmed unlawful access to any Customer Content stored on Smartsheet Information Systems, (a "**Security Incident**"), Smartsheet will promptly: (a) notify Customer of the Security Incident; and (ii) take reasonable steps to mitigate the effects and to minimize any damage resulting from the Security Incident.

5.2 An unsuccessful attack or intrusion is not a Security Incident that would be subject to this Section. An unsuccessful attack or intrusion is one that results in no unauthorized access to Customer Content or to Smartsheet Information Systems, and may include, without limitation, pings and other broadcast attacks on firewalls or edge servers, port scans, unsuccessful log-on attempts, denial of service attacks, packet sniffing (or other unauthorized access to traffic data that does not result in access beyond IP addresses or TCP/UDP headers) or similar incidents.

5.3 Unauthorized access to Customer Content that results from the compromise of a Customer User's or Collaborator's login credentials or from the intentional or inadvertent disclosure of Customer Content by a Customer User or Collaborator is not a Security Incident.

5.4 Smartsheet's obligation to report or respond to a Security Incident under this section is not an acknowledgement by Smartsheet of any fault or liability of Smartsheet with respect to the Security Incident.

5.5 Notification(s) of Security Incidents, if any, will be delivered to one or more of Customer's SysAdmin users by any reasonable means Smartsheet selects, including email. It is Customer's sole responsibility to ensure that its Sys Admins maintain accurate contact information in the Subscription Service at all times.

#### **6. Reporting**

6.1 Smartsheet will monitor the effectiveness of its security program by conducting self-audits and risk assessments of Smartsheet Information Systems against the written policies and procedures maintained pursuant to this Schedule no less frequently than

annually. Smartsheet will be responsible for ensuring consistency of its security operations, including proactive monitoring and mitigation of vulnerabilities.

6.2 Smartsheet uses external auditors to verify the adequacy of its security measures. This audit: (a) will include testing of the entire measurement period since the previous measurement period ended; (b) will be performed according to AICPA SOC2 standards or such other alternative standards that are substantially equivalent to AICPA SOC2; (c) will be performed by independent third party security professionals at Smartsheet's selection and expense; and (d) will result in the generation of an audit report ("**Audit Report**"), which will be Smartsheet's Confidential Information. Audit Reports will be made available to Customer upon written request no more than annually, subject to a mutually-agreed non-disclosure agreement covering the Audit Report. Notwithstanding the foregoing, Customer acknowledges and understands that Smartsheet is in the process of penetration testing the Premium Apps and they will not be included in an audit or accompanying Audit Report unless otherwise specified by Smartsheet in writing.

## **7. Treatment of Customer Content at Termination**

7.1 Subject to Section 7.2 below, Smartsheet will within one hundred eighty (180) days following termination of the Agreement, render unrecoverable all Customer Content from Smartsheet Information Systems and, upon written request, certify such in writing.

7.2 Customer acknowledges that Smartsheet may, by virtue of its standard retention copy creation procedures and/or as a requirement of certain laws/regulations to which Smartsheet is subject, maintain copies and/or backups of Customer Content (including as part of records, documents or broader data sets) beyond the period described in Section 7.1. In such cases, notwithstanding the requirements of Section 7.1, Customer agrees that Smartsheet may continue to retain such Customer Content in copies and/or backups beyond the period prescribed in Section 7.1, provided that (i) Smartsheet notifies Customer on termination of its need to retain such copies and/or backups; and (ii) Smartsheet will continue to comply with all the requirements of this Schedule in relation to any such retained Customer Content.

**SCHEDULE 2**  
**TRAVEL AND EXPENSE REIMBURSEMENT GUIDELINES**

Smartsheet personnel (“**Personnel**”) may occasionally be requested to travel in support of Customer. Smartsheet is committed to ensuring that employees who travel on company business do so comfortably, conveniently and safely. To ensure consistency, the following guidelines have been developed to document and clarify what are allowable business expenses that will be billed to Customer. Smartsheet will invoice based on actual costs incurred except as otherwise specified below. Smartsheet will invoice Customer and Customer will pay all invoices in accordance with the Agreement. Receipts will be provided upon request for items billed at actual cost.

**Air Travel**

- All domestic airfare is to be booked coach/economy class. All international airline travel will be booked economy plus and Smartsheet will invoice Customer based on actual costs incurred.
- Reservations should be made at least fourteen (14) days in advance of travel for domestic trips and at least twenty-one (21) days in advance for international trips unless Customer requests travel with less notice.
- Non-refundable, non-changeable tickets should be booked whenever possible to reduce cost.
- If the airline charges a baggage fee for the first checked bag such costs will be included for reimbursement.

**Ground Transportation**

- **Rental Cars:** Personnel will rent a mid-size car, or smaller, unless otherwise requested by Customer. Personnel will refuel the car before returning to avoid unnecessary fueling charges. Additional liability insurance will not be included for domestic US car rentals but will be included for international car rentals.
- **Other Ground Transportation:** Reimbursement for taxis, trains, subways and buses are allowed for transportation to and from the airport or rental car facility and/or for when a rental car will not be used. Any tips should not exceed fifteen percent (15%) of the cost of the trip.
- **Mileage:** If Customer’s location is within two hundred (200) miles or three (3) hours’ drive from Personnel’s workplace, Personnel may use their own vehicle to drive to Customer’s location. If Personnel drive their own vehicle to the airport they will deduct the mileage from their home to their workplace, and include the difference as billable to Customer. Customer will reimburse the miles traveled at the current IRS rate. For current mileage reimbursement rates, please refer to Privately Owned Vehicle Mileage Reimbursement Rates at [www.gsa.gov/mileage](http://www.gsa.gov/mileage).
- **Parking/Tolls:** Parking fees and toll charges associated with airports, business travel or for the Customer location are reimbursable.

**Hotel & Lodging**

- Customer will reimburse Smartsheet for reasonable lodging costs to include any taxes or lodging fees imposed by the facility.
- Hotel bills should be itemized and not include any personal items.

**Meals**

- Smartsheet will invoice Customer a per diem rate for meals and incidentals. This will be based on the location where services are being rendered in accordance with current IRS per diem rates. For current guidelines, please refer to Per Diem Rates at [www.gsa.gov/portal/category/21287](http://www.gsa.gov/portal/category/21287).
- Due to the per diem nature of meals and incidentals, receipts will not be required.

**Changes**

- Should Personnel have to change their travel arrangements due to a request from the Customer, Customer will be responsible for any fees incurred by Smartsheet. Such fees may include, but are not limited to, the following:
  - Late cancellation fees for lodging should Customer cancel after the allowable refund period.
  - Air travel change fees.
  - Additional per diem for meals for extended schedules.
  - Additional lodging costs for extended schedules.